

## REMARKS

Claims 1, 3-13 have been rejected under 35 U.S.C. 102(b) as being unpatentable over Kelly (US 1,279,353), and claims 1 and 2 have been rejected as being anticipated by Brown (US 1,895,146). Applicant has amended the claims to more specifically define applicant's invention. New claims 14-25 have been added. Applicant has included a check in the amount of \$425 to cover the additional claims fee.

### Claim 1:

The examiner contends that claim 1 of the present invention is unpatentable under 35 U.S.C. 102(b) as being anticipated by Kelly et al. The applicant respectfully traverses the rejection. The applicant contends that there are significant differences between the prior art taught by Kelly and the present invention; thus the present invention is not anticipated under 35 U.S.C. 102(b). There are three primary differences between the prior art taught by Kelly and claim 1 of the present invention, (1) the knob 25 on Kelly is mounted on the side of the plate 12 where the button 27 of the present invention is on the faceplate 16 of the housing 11, (2) Kelly requires the knob 25 to be slightly depressed to allow the latch bolt 10 to be retracted where the tumbler 60 of the present invention can be depressed at any time, (3) the latch bolt 10 fails to receive the end of the spring 27 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. Given these differences the prior art does not anticipate the claimed invention.

The first significant difference between the prior art and the present invention is that the knob 25

on Kelly is mounted on the side of the plate 12 where the button 27 of the present invention is mounted on the top of the housing 11. The prior art taught by Kelly is intended to be placed on the side of a window sash, which allows the knob to be available to the user. The present invention is intended to be imbedded in a window sash in a depression so that only the faceplate 16 of the present invention is exposed. If the button 27 of the present invention were located on the side of the housing 11 in a manner similar to the knob 25 in the prior art taught by Kelly then the knob 25 would be inaccessible to the user. The knob 25 of the prior art taught by Kelly is the only way to get the bolt 10 to extend, just as the button 27 of the present invention is the only way to get the tumbler 60 to extend, further the knob 25 must be depressed to get the bolt 10 to retract. If the prior art taught by Kelly were imbedded in a window sash in a recess then the knob would be inaccessible and the prior art would be inoperable, just as the present invention would be if the button 27 were relocated to the side of the housing 11. Further if the prior art by Kelly was imbedded in a depression like the present invention and the knob 25 was relocated to the exposed surface of the prior art, the prior would be rendered inoperable because the catch member 21 does not have enough surface area to provide a mounting point for the knob 25, and further the spring 27 would interfere with the connection between the catch member 21 and the knob 25. Because the prior art teaches that the knob 25 is mounted on the side of the plate 12, unlike the present invention which claims a button 27 which is mounted on top of the housing 11, the present invention is not anticipated by Kelly.

The second significant difference between the prior art and the present invention is that Kelly requires the knob 25 to be slightly depressed to allow the latch bolt 10 to be retracted where the tumbler 60 of the present invention can be depressed at any time without such a step. The present

invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed, the applicant reiterates the argument above regarding the placement of the knob 25 on the side of the housing which renders the prior art taught by Kelly inoperable when it is mounted as the present invention is intended to be mounted. Further the requirement that the knob 25 be depressed to retract the latch bolt 10 would seem to make it more difficult for the elderly, the handicapped and anyone who does not have good manual dexterity. Requiring the knob 25 be depressed to retract the latch bolt 10 makes it difficult for people with limited dexterity to operate the prior art taught by Kelly. The present invention does not require that the button 27 be depressed to allow the tumbler to be retracted, this makes the present invention more convenient to operate than the prior art taught by Kelly. Because the prior art teaches that the knob 25 must be depressed to retract the latch bolt 10, unlike the present invention which allows the tumbler 60 to be retracted without depressing the button 27, the present invention is not anticipated by the prior art.

The third significant difference between the prior art and the present invention is that the latch bolt 10 taught by Kelly fails to receive the end of the spring 27 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. The prior art by Kelly teaches that the spring 27 pushes the latch bolt 10 up with no physical connection between the spring 27 and the latch bolt 10. The present invention is directed to a tumbler 60 with a recessed portion 38 which receives one end 38 of the spring 33. The physical connection between the tumbler and spring give the present invention an advantage in assembly over the prior art. Because the prior art fails to teach that the latch bolt 10 receives the end of the spring 27, unlike the present invention where the tumbler 60 has a recessed portion 38 for receiving one end 38 of the spring 33, the present invention is

not anticipated by the prior art.

For the reasons given above the prior art taught by Kelly does not anticipate the present invention.

The examiner contends that claim 1 of the present invention is unpatentable under 35 U.S.C. 102(b) as being anticipated by Brown. The applicant respectfully traverses the rejection. The applicant asserts that there are significant differences between the prior art taught by Brown and the present invention; thus the present invention is not anticipated under 35 U.S.C. 102(b). There are three main significant differences between the prior art taught by Brown and claim 1 of the present invention, (1) the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs and (2) the trigger bar 17 of the prior art taught by Brown releases the stop 7 by laterally movement where the button 27 is pushed inwardly to release the tumbler 60, (3) the stop 7 taught by Brown fails to receive the end of the spring 11 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. Given these differences the prior art does not anticipate the present invention.

The first significant difference between claim 1 of the present invention and the prior art taught by Brown is the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed therefore the present invention is intended to be robust and long lasting. The present invention only requires one spring 33 to operate. The prior art taught by Brown requires 4

springs to operate correctly, which are spring 11 spring 15 spring 16 and spring 19. If any one of the springs of the prior art taught by Brown fails then the prior art will be rendered inoperable. The fewer moving parts that a machine has, the fewer number of parts there are to wear out and the longer the machine should last. Because the present invention has fewer springs than the prior art taught by Brown, the present invention is a far simpler device. Because the prior art teaches that the use of four springs, unlike the present invention which teaches the use of only one spring, the present invention is not anticipated by the prior art.

The second significant difference between claim 1 of the present invention and the prior art taught by Brown is the trigger bar 17 of the prior art taught by Brown releases the stop 7 by lateral movement where the button 27 is pushed inwardly to release the tumbler 60. The prior art taught by Brown requires more dexterity than the present invention, therefore manipulating the trigger of the prior art may be difficult for handicapped or elderly persons. The button of the present invention is a simpler device than the trigger of the prior art it would be easier for an elderly or handicap person to manipulate. Because the prior art teaches the use of a trigger bar 17 which releases the stop 7 when laterally moved unlike the present invention's button 27 which pushed inwardly to release the tumbler 60, the present invention is not anticipated by the prior art.

The third significant difference between the prior art and claim 1 of the present invention is that the stop 7 taught by Brown fails to receive the end of the spring 11 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. The prior art by Brown teaches that the spring 11 pushes the stop 7 up with no physical connection between the spring 11 and the stop 7. The present invention teaches a tumbler 60 with a recessed portion 38 which receives one

end 38 of the spring 33 so that the spring and tumbler 60 are physically connected. The physical connection between the tumbler and spring give the present invention an advantage over the prior art. Because the prior art fails to teach that the stop 7 receives the end of the spring 11, unlike the present invention where the tumbler 60 has a recessed portion 38 for receiving one end 38 of the spring 33, the present invention is not anticipated by the prior art.

For the reasons given above the prior art taught by Brown does not anticipate the present invention.

**Claim 9:**

The examiner contends that claim 9 of the present invention is barred under 35 U.S.C. 102(b) as being anticipated by Kelly et al. The applicant respectfully traverses the rejection. The applicant asserts that there are significant differences between the prior art taught by Kelly and the present invention; thus the present invention is not anticipated under 35 U.S.C. 102(b). There are two main significant differences between the prior art taught by Kelly and the present invention, (1) the projection 19 on Kelly prevents bolt 10 from extending beyond a point where the retaining members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 60, and (2) the latch bolt 10 fails to receive the end of the spring 27 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. Given these differences the prior art does not anticipate the present invention.

The first significant difference between the prior art and claim 9 of the present invention is that the projection 19 on Kelly prevents bolt 10 from extending beyond a point where the retaining

members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 60. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed. Removing the present invention from the window sash would be a time consuming process and may damage the window sash, therefore the present invention is intended be robust and long lasting. The prior art taught by Kelly has one point of contact, the projection 19, which stops the bolt 10 from moving, if the projection 19 fails then there the prior art taught by Kelly is rendered inoperable because there is no way to stop the bolt 10 from extended beyond the intended extension point. The present invention differs from the prior art taught by Kelly because there is no projection to wear out. The present invention uses retaining members 24 and 25 which are molded on the tumbler to control the distance the tumbler extends, these retaining members slide through recessed tracks 22 and 23 which are provided by the side walls 14 and 15. The retaining members 24 and 25 of the present invention are superior to the projection 19 of the prior art because the retaining members 24 and 25 are less likely to fail compared to the projection 19 and there are two retaining members so even if one does fail then the other retaining member will still prevent the tumbler 60 from traveling beyond the intended extension point. Because the prior art teaches the use of a projection 19 to prevents the bolt 10 from extending beyond the intended extension point, unlike the present invention which uses two retaining members 24 and 25 to prevent the tumbler 60 from extended beyond the intended extension point, the present invention is not anticipated by the prior art.

The second significant difference between the prior art and claim 9 of the present invention is that the latch bolt 10 taught by Kelly fails to receive the end of the spring 27 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. The prior art

by Kelly teaches that the spring 27 pushes the latch bolt 10 up with no physical connection between the spring 27 and the latch bolt 10. The present invention teaches a tumbler 60 with a recessed portion 38 which receives one end 38 of the spring 33 so that the spring and tumbler 60 are physically connected. The physical connection between the tumbler and spring give the present invention an advantage over the prior art. Because the prior art fails to teach that the latch bolt 10 receives the end of the spring 27, unlike the present invention where the tumbler 60 has a recessed portion 38 for receiving one end 38 of the spring 33, the present invention is not anticipated by the prior art.

For the reasons given above the prior art taught by Kelly does not anticipate the present invention.

The examiner contends that claim 9 of the present invention is barred under 35 U.S.C. 102(b) as being anticipated by Brown. The applicant respectfully traverses the rejection. The applicant asserts that there are significant differences between the prior art taught by Brown and the present invention; thus the present invention is not anticipated under 35 U.S.C. 102(b). There are three main significant differences between the prior art taught by Brown and the present invention, (1) ledge 12 of the housing controls the range of the stop member 7 where the retaining members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 60, (2) the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs and (3) the stop 7 taught by Brown fails to receive the end of the spring 11 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. Given these differences the prior art does not anticipate the



present invention.

The first significant difference between the present invention and the prior art taught by Brown is the ledge 12 of the housing controls the range of the stop member 7 where the retaining members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 60. The present invention differs from the prior art taught by Brown because there is no ledge 12 to wear out in the present invention. The present invention uses retaining members 24 and 25 which are molded on the tumbler to control the distance the tumbler extends, these retaining members slide through recessed tracks 22 and 23 which are provided by the side walls 14 and 15. The retaining members 14 and 25 of the present invention are superior to the ledge 12 of the prior art because the retaining members 24 and 25 are less likely to fail compared to the ledge 12 and there are two retaining members so even if one does fail then the other retaining member will still prevent the tumbler 60 from traveling beyond the intended extension point. Because the prior art teaches the use of a ledge 12 to prevent the stop member 7 from extending beyond the intended extension point, unlike the present invention which uses two retaining members 24 and 25 to prevent the tumbler 60 from extending beyond the intended extension point, the present invention is not anticipated by the prior art.

The second significant difference between the present invention and the prior art taught by Brown is the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed therefore the present invention is intended to be robust and long lasting. The present invention only requires one spring 33 to operate correctly. The prior art taught by Brown

requires 4 springs to operate correctly, which are spring 11 spring 15 spring 16 and spring 19. If any one of the springs of the prior art taught by Brown fails then the prior art will be rendered inoperable. The fewer moving parts that a machine has, the fewer number of parts there are to wear out and the longer the machine should last. Because the present invention has fewer springs than the prior art taught by Brown, the present invention is a simpler machine and should last longer. Because the prior art teaches that the use of four springs, unlike the present invention which teaches the use of only one spring, the present invention is not anticipated by the prior art.

The third significant difference between the prior art and the present invention is that the stop 7 taught by Brown fails to receive the end of the spring 11 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. The prior art by Brown teaches that the spring 11 pushes the stop 7 up with no physical connection between the spring 11 and the stop 7. The present invention teaches a tumbler 60 with a recessed portion 38 which receives one end 38 of the spring 33 so that the spring and tumbler 60 are physically connected. The physical connection between the tumbler and spring give the present invention an advantage over the prior art. Because the prior art fails to teach that the stop 7 receives the end of the spring 11, unlike the present invention where the tumbler 60 has a recessed portion 38 for receiving one end 38 of the spring 33, the present invention is not anticipated by the prior art.

For the reasons given above the prior art taught by Brown does not anticipate claim 9 of the present invention.

**Claim 15:**

The applicant asserts that there are significant differences between the prior art cited by the examiner and the present invention; thus the present invention is not anticipated under 35 U.S.C. 102(b). There are four primary differences between the prior art taught by Kelly and the present invention, (1) the knob 25 on Kelly is mounted on the side of the plate 12 where the button 27 of the present invention is on the top of the housing 11, (2) the projection 19 on Kelly prevents bolt 10 from extending beyond a point where the retaining members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 60, (3) and Kelly requires the knob 25 to be slightly depressed to allow the latch bolt 10 to be retracted where the tumbler 60 of the present invention can be depressed at any time, (4) the latch bolt 10 fails to receive the end of the spring 27 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. Given these differences the prior art does not anticipate the present invention.

The first significant difference between the prior art and the present invention is that the knob 25 on Kelly is mounted on the side of the plate 12 where the button 27 of the present invention is mounted on the top of the housing 11. The prior art taught by Kelly is intended to be placed on the side of a window sash, which allows the knob to be available to the user. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed. The present invention is intended to be imbedded in a depression of the window sash for both aesthetic and structural reasons. If the button 27 of the present invention were located on the side of the housing 11 in a manner similar to the knob 25 in the prior art taught by Kelly then the knob 25 would be inaccessible to the user. The knob 25 of the prior art taught by Kelly is the only way to get the bolt 10 to extend, just as the button 27 of the present invention is the only way to get the tumbler 60 to extend,

further the knob 25 must be depressed to get the bolt 10 to retract. If the prior art taught by Kelly were imbedded in a window sash in a recess then the knob would be inaccessible and the prior art would be inoperable, just as the present invention would be if the button 27 were relocated to the side of the housing 11. Further if the prior art by Kelly was imbedded in a depression like the present invention and the knob 25 was relocated to the exposed surface of the prior art, the prior would be rendered inoperable because the catch member 21 does not have enough surface area to provide amounting point for the knob 25, and further the spring 27 would interfere with the connection between the catch member 21 and the knob 25. Because the prior art teaches that the knob 25 is mounted on the side of the plate 12, unlike the present invention which claims a button 27 which is mounted on top of the housing 11, the present invention is not anticipated by Kelly.

The second significant difference between the prior art and the present invention is that the projection 19 on Kelly prevents bolt 10 from extending beyond a point where the retaining members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 60. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed. Removing the present invention from the window sash would be a time consuming process and may damage the window sash, therefore the present invention is intended be robust and long lasting. The prior art taught by Kelly has one point of contact, the projection 19, which stops the bolt 10 from moving, if the projection 19 fails then there the prior art taught by Kelly is rendered inoperable because there is no way to stop the bolt 10 from extended beyond the intended extension point. The present invention differs from the prior art taught by Kelly because there is no projection to wear out. The present invention uses retaining members 24 and 25 which are molded on

the tumbler to control the distance the tumbler extends, these retaining members slide through recessed tracks 22 and 23 which are provided by the side walls 14 and 15. The retaining members 24 and 25 of the present invention are superior to the projection 19 of the prior art because the retaining members 24 and 25 are less likely to fail compared to the projection 19 and there are two retaining members so even if one does fail then the other retaining member will still prevent the tumbler 60 from traveling beyond the intended extension point. Because the prior art teaches the use of a projection 19 to prevent the bolt 10 from extending beyond the intended extension point, unlike the present invention which uses two retaining members 24 and 25 to prevent the tumbler 60 from extended beyond the intended extension point, the present invention is not anticipated by the prior art.

The third significant difference between the prior art and the present invention is that Kelly requires the knob 25 to be slightly depressed to allow the latch bolt 10 to be retracted where the tumbler 60 of the present invention can be depressed at any time. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed, the applicant reiterates the argument above regarding the placement of the knob 25 on the side of the housing which renders the prior art taught by Kelly inoperable when it is mounted as the present invention is intended to be mounted. Further the requirement that the knob 25 be depressed to retract the latch bolt 10 creates a problem for the elderly and handicapped. Requiring the knob 25 be depressed to retract the latch bolt 10 makes it difficult for people with limited or no hand dexterity to operate the prior art taught by Kelly. The present invention does not require that the button 27 be depressed to allow the tumbler to be retracted, this makes the present invention more convenient to operate than the prior art taught by Kelly for people with limited or no dexterity of the hands. Because

the prior art teaches that the knob 25 must be depressed to retract the latch bolt 10, unlike the present invention which allows the tumbler 60 to be retracted without depressing the button 27, the present invention is not anticipated by the prior art.

The fourth significant difference between the prior art and the present invention is that the latch bolt 10 taught by Kelly fails to receive the end of the spring 27 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. The prior art by Kelly teaches that the spring 27 pushes the latch bolt 10 up with no physical connection between the spring 27 and the latch bolt 10. The present invention teaches a tumbler 60 with a recessed portion 38 which receives one end 38 of the spring 33 so that the spring and tumbler 60 are physically connected. The physical connection between the tumbler and spring give the present invention an advantage over the prior art. Because the prior art fails to teach that the latch bolt 10 receives the end of the spring 27, unlike the present invention where the tumbler 60 has a recessed portion 38 for receiving one end 38 of the spring 33, the present invention is not anticipated by the prior art.

For the reasons given above the prior art taught by Kelly does not anticipate the present invention.

The examiner contends that the present invention is unpatentable under 35 U.S.C. 102(b) as being anticipated by Brown. The applicant respectfully traverses the rejection. The applicant asserts that there are significant differences between the prior art taught by Brown and the present invention; thus the present invention is not anticipated under 35 U.S.C. 102(b). There are five primary differences between the prior art taught by Brown and the present invention, (1) ledge 12 of the housing controls

the range of the stop member 7 where the retaining members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 60, (2) the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs and (3) the trigger bar 17 of the prior art taught by Brown releases the stop 7 by laterally movement where the button 27 is pushed inwardly to release the tumbler 60, (4) the fact that the invention taught by Brown is intended to be a door stop where the present invention is intended to be a window sash stop, (5) the stop 7 taught by Brown fails to receive the end of the spring 11 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. Given these differences the prior art does not anticipate the present invention.

The first significant difference between the present invention and the prior art taught by Brown is the ledge 12 of the housing controls the range of the stop member 7 where the retaining members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 60. The present invention differs from the prior art taught by Brown because there is no ledge 12 to wear out in the present invention. The present invention uses retaining members 24 and 25 which are molded on the tumbler to control the distance the tumbler extends, these retaining members slide through recessed tracks 22 and 23 which are provided by the side walls 14 and 15. The retaining members 14 and 25 of the present invention are superior to the ledge 12 of the prior art because the retaining members 24 and 25 are less likely to fail compared to the ledge 12 and there are two retaining members so even if one does fail then the other retaining member will still prevent the tumbler 60 from traveling beyond the intended extension point. Because the prior art teaches the use of a ledge 12 to prevents the stop member 7 from extending beyond the intended extension point, unlike the present invention which uses

two retaining members 24 and 25 to prevent the tumbler 60 from extending beyond the intended extension point, the present invention is not anticipated by the prior art.

The second significant difference between the present invention and the prior art taught by Brown is the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed therefore the present invention is intended to be robust and long lasting. The present invention only requires one spring 33 to operate correctly. The prior art taught by Brown requires 4 springs to operate correctly, which are spring 11 spring 15 spring 16 and spring 19. If any one of the springs of the prior art taught by Brown fails then the prior art will be rendered inoperable. The fewer moving parts that a machine has, the fewer number of parts there are to wear out and the longer the machine should last. Because the present invention has fewer springs than the prior art taught by Brown, the present invention is a simpler machine and should last longer. Because the prior art teaches that the use of four springs, unlike the present invention which teaches the use of only one spring, the present invention is not anticipated by the prior art.

The third significant difference between the present invention and the prior art taught by Brown is the trigger bar 17 of the prior art taught by Brown releases the stop 7 by laterally movement where the button 27 is pushed inwardly to release the tumbler 60. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed and to be operated with one's fingers. The prior art taught by Brown is intended to be mounted on the floor in a similar fashion as the present invention and to be operated with one's foot. The prior art taught by



Brown requires more dexterity than the present invention, therefore manipulating the trigger of the prior art may be difficult for handicapped or elderly persons. The button of the present invention is a simpler device than the trigger of the prior art it would be easier for an elderly or handicap person to manipulate. Because the prior art teaches the use of a trigger bar 17 which releases the stop 7 when laterally moved unlike the present invention's button 27 which pushed inwardly to release the tumbler 60, the present invention is not anticipated by the prior art.

The fourth significant difference between the present invention and the prior art taught by Brown is the fact that the invention taught by Brown is intended to be a door stop where the present invention is intended to be a window sash stop. The prior art taught by Brown has a trigger which is activated with one foot by laterally moving the trigger toward the stop, and to open the door beyond the prior art the door must be elevated high enough so that the trigger is not laterally moved. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed and the top face is flush with the surface of the window sash. The prior art taught by Brown would create a problem if mounted on a window sash because the window could only be opened to the point that the trigger was laterally moved after that point the trigger would release the stop and the stop would prevent the window from being opened further. The present invention does not have this issue, a window outfitted with the present invention will have no difference in the amount which it can be opened because the present invention is mounted flush with the window sash and because the button which releases the tumbler on the present invention must be pushed as opposed to slid laterally. Further the button of the present invention is intended to be flush with the surface of the present invention, unlike the trigger of the prior art taught by Brown, which must not be flush to allow

one to operate the trigger with one's foot. Because the prior art is intended to be a door stop, unlike the present invention which intended to be a window sash stop, the present invention is not anticipated by the prior art.

The fifth significant difference between the prior art and the present invention is that the stop 7 taught by Brown fails to receive the end of the spring 11 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. The prior art by Brown teaches that the spring 11 pushes the stop 7 up with no physical connection between the spring 11 and the stop 7. The present invention teaches a tumbler 60 with a recessed portion 38 which receives one end 38 of the spring 33 so that the spring and tumbler 60 are physically connected. The physical connection between the tumbler and spring give the present invention an advantage over the prior art. Because the prior art fails to teach that the stop 7 receives the end of the spring 11, unlike the present invention where the tumbler 60 has a recessed portion 38 for receiving one end 38 of the spring 33, the present invention is not anticipated by the prior art.

For the reasons given above the prior art taught by Brown does not anticipate the present invention.

**Claim 24:**

The applicant asserts that there are significant differences between the prior art cited by the examiner and claim 24 of the present invention; thus the present invention is not anticipated under 35 U.S.C. 102(b). There are two primary differences between the prior art taught by Kelly and the present invention, (1) the knob 25 on Kelly is mounted on the side of the plate 12 where the button 27

of the present invention is on the top of the housing 11, and (2) and Kelly requires the knob 25 to be slightly depressed to allow the latch bolt 10 to be retracted where the tumbler 60 of the present invention can be depressed at any time. Given these differences the prior art does not anticipate the present invention.

The first significant difference between the prior art and the present invention is that the knob 25 on Kelly is mounted on the side of the plate 12 where the button 27 of the present invention is mounted on the top of the housing 11. The prior art taught by Kelly is intended to be placed on the side of a window sash, which allows the knob to be available to the user. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed. The present invention is intended to be imbedded in a depression of the window sash for both aesthetic and structural reasons. If the button 27 of the present invention were located on the side of the housing 11 in a manner similar to the knob 25 in the prior art taught by Kelly then the knob 25 would be inaccessible to the user. The knob 25 of the prior art taught by Kelly is the only way to get the bolt 10 to extend, just as the button 27 of the present invention is the only way to get the tumbler 60 to extend, further the knob 25 must be depressed to get the bolt 10 to retract. If the prior art taught by Kelly were imbedded in a window sash in a recess then the knob would be inaccessible and the prior art would be inoperable, just as the present invention would be if the button 27 were relocated to the side of the housing 11. Further if the prior art by Kelly was imbedded in a depression like the present invention and the knob 25 was relocated to the exposed surface of the prior art, the prior would be rendered inoperable because the catch member 21 does not have enough surface area to provide amounting point for the knob 25, and further the spring 27 would interfere with the connection between

the catch member 21 and the knob 25. Because the prior art teaches that the knob 25 is mounted on the side of the plate 12, unlike the present invention which claims a button 27 which is mounted on top of the housing 11, the present invention is not anticipated by Kelly.

The second significant difference between the prior art and the present invention is that Kelly requires the knob 25 to be slightly depressed to allow the latch bolt 10 to be retracted where the tumbler 60 of the present invention can be depressed at any time. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed, the applicant reiterates the argument above regarding the placement of the knob 25 on the side of the housing which renders the prior art taught by Kelly inoperable when it is mounted as the present invention is intended to be mounted. Further the requirement that the knob 25 be depressed to retract the latch bolt 10 creates a problem for the elderly and handicapped. Requiring the knob 25 be depressed to retract the latch bolt 10 makes it difficult for people with limited or no hand dexterity to operate the prior art taught by Kelly. The present invention does not require that the button 27 be depressed to allow the tumbler to be retracted, this makes the present invention more convenient to operate than the prior art taught by Kelly for people with limited or no dexterity of the hands. Because the prior art teaches that the knob 25 must be depressed to retract the latch bolt 10, unlike the present invention which allows the tumbler 60 to be retracted without depressing the button 27, the present invention is not anticipated by the prior art.

For the reasons given above the prior art taught by Kelly does not anticipate the present invention.

The applicant asserts that there are significant differences between the prior art cited by the examiner and claim 24 the present invention; thus the present invention is not anticipated under 35 U.S.C. 102(b) by the prior art taught by Brown. There are two primary differences between the prior art taught by Brown and the present invention, (1) the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs, and (2) the trigger bar 17 of the prior art taught by Brown releases the stop 7 by laterally movement where the button 27 is pushed inwardly to release the tumbler 60. Given these differences the prior art does not anticipate the present invention.

The first significant difference between the present invention and the prior art taught by Brown is the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed therefore the present invention is intended to be robust and long lasting. The present invention only requires one spring 33 to operate correctly. The prior art taught by Brown requires 4 springs to operate correctly, which are spring 11 spring 15 spring 16 and spring 19. If any one of the springs of the prior art taught by Brown fails then the prior art will be rendered inoperable. The fewer moving parts that a machine has, the fewer number of parts there are to wear out and the longer the machine should last. Because the present invention has fewer springs than the prior art taught by Brown, the present invention is a simpler machine and should last longer. Because the prior art teaches that the use of four springs, unlike the present invention which teaches the use of only one spring, the present invention is not anticipated by the prior art.

The second significant difference between the present invention and the prior art taught by Brown is the trigger bar 17 of the prior art taught by Brown releases the stop 7 by laterally movement where the button 27 is pushed inwardly to release the tumbler 60. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed and to be operated with one's fingers. The prior art taught by Brown is intended to be mounted on the floor in a similar fashion as the present invention and to be operated with one's foot. The prior art taught by Brown requires more dexterity than the present invention, therefore manipulating the trigger of the prior art may be difficult for handicapped or elderly persons. The button of the present invention is a simpler device than the trigger of the prior art it would be easier for an elderly or handicap person to manipulate. Because the prior art teaches the use of a trigger bar 17 which releases the stop 7 when laterally moved unlike the present invention's button 27 which pushed inwardly to release the tumbler 60, the present invention is not anticipated by the prior art.

For the reasons given above the prior art taught by Brown does not anticipate the present invention.

**Claim 33:**

The applicant asserts that there are significant differences between the prior art taught by Kelly and claim 33 of the present invention; thus the present invention is not anticipated under 35 U.S.C. 102(b) by the prior art taught by Kelly. There are two primary differences between the prior art taught by Kelly and the present invention, (1) the projection 19 on Kelly prevents bolt 10 from extending beyond a point where the retaining members 24 and 25 of the present invention govern the amount of

travel permitted to the tumbler 60, and (2) the latch bolt 10 fails to receive the end of the spring 27 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. Given these differences the prior art does not anticipate the present invention.

The first significant difference between the prior art and claim 9 of the present invention is that the projection 19 on Kelly prevents bolt 10 from extending beyond a point where the retaining members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 21. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed. Removing the present invention from the window sash would be a time consuming process and may damage the window sash, therefore the present invention is intended be robust and long lasting. The prior art taught by Kelly has one point of contact, the projection 19, which stops the bolt 10 from moving, if the projection 19 fails then there the prior art taught by Kelly is rendered inoperable because there is no way to stop the bolt 10 from extended beyond the intended extension point. The present invention differs from the prior art taught by Kelly because there is no projection to wear out. The present invention uses retaining members 24 and 25 which are molded on side walls 14 and 15 to control the distance the tumbler extends, these retaining members slide through recessed tracks 22 and 23 which are provided by the tumbler 21. The retaining members 24 and 25 of the present invention are superior to the projection 19 of the prior art because the retaining members 24 and 25 are less likely to fail compared to the projection 19 and there are two retaining members so even if one does fail then the other retaining member will still prevent the tumbler 21 from traveling beyond the intended extension point. Because the prior art teaches the use of a projection 19 to prevents the bolt 10 from extending beyond the intended extension point, unlike the present invention

which uses two retaining members 24 and 25 to prevent the tumbler 21 from extended beyond the intended extension point, the present invention is not anticipated by the prior art.

The second significant difference between the prior art and claim 9 of the present invention is that the latch bolt 10 taught by Kelly fails to receive the end of the spring 27 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. The prior art by Kelly teaches that the spring 27 pushes the latch bolt 10 up with no physical connection between the spring 27 and the latch bolt 10. The present invention teaches a tumbler 60 with a recessed portion 38 which receives one end 38 of the spring 33 so that the spring and tumbler 60 are physically connected. The physical connection between the tumbler and spring give the present invention an advantage over the prior art. Because the prior art fails to teach that the latch bolt 10 receives the end of the spring 27, unlike the present invention where the tumbler 60 has a recessed portion 38 for receiving one end 38 of the spring 33, the present invention is not anticipated by the prior art.

For the reasons given above the prior art taught by Kelly does not anticipate the present invention.

The applicant asserts that there are significant differences between the prior art cited by the examiner and claim 33 of the present invention; thus the present invention is not anticipated under 35 U.S.C. 102(b) by the prior art taught by Brown. There are three primary differences between the prior art taught by Brown and the present invention, (1) ledge 12 of the housing controls the range of the stop member 7 where the retaining members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 21, (2) the present invention accomplishes a task similar to the intended



purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs and (3) the stop 7 taught by Brown fails to receive the end of the spring 11 where the tumbler 21 of the present invention has a recessed portion 38 for receiving one end 39 of the spring 33. Given these differences the prior art does not anticipate the present invention.

The first significant difference between the present invention and the prior art taught by Brown is the ledge 12 of the housing controls the range of the stop member 7 where the retaining members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 21. The present invention differs from the prior art taught by Brown because there is no ledge 12 to wear out in the present invention. The present invention uses retaining members 24 and 25 which are molded on the interior of the side walls 14 and 15 and mesh with recessed tracks 22 and 23 which are molded onto the tumbler 21. The retaining members 24 and 25 of the present invention are superior to the ledge 12 of the prior art because the retaining members 24 and 25 are less likely to fail compared to the ledge 12 and there are two retaining members so even if one does fail then the other retaining member will still prevent the tumbler 21 from traveling beyond the intended extension point. Because the prior art teaches the use of a ledge 12 to prevent the stop member 7 from extending beyond the intended extension point, unlike the present invention which uses two retaining members 24 and 25 to prevent the tumbler 21 from extending beyond the intended extension point, the present invention is not anticipated by the prior art.

The second significant difference between the present invention and the prior art taught by Brown is the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs. The present

invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed therefore the present invention is intended to be robust and long lasting. The present invention only requires one spring 33 to operate correctly. The prior art taught by Brown requires 4 springs to operate correctly, which are spring 11 spring 15 spring 16 and spring 19. If any one of the springs of the prior art taught by Brown fails then the prior art will be rendered inoperable. The fewer moving parts that a machine has, the fewer number of parts there are to wear out and the longer the machine should last. Because the present invention has fewer springs than the prior art taught by Brown, the present invention is a simpler machine and should last longer. Because the prior art teaches that the use of four springs, unlike the present invention which teaches the use of only one spring, the present invention is not anticipated by the prior art.

The third significant difference between the prior art and the present invention is that the stop 7 taught by Brown fails to receive the end of the spring 11 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. The prior art by Brown teaches that the spring 11 pushes the stop 7 up with no physical connection between the spring 11 and the stop 7. The present invention teaches a tumbler 60 with a recessed portion 38 which receives one end 38 of the spring 33 so that the spring and tumbler 60 are physically connected. The physical connection between the tumbler and spring give the present invention an advantage over the prior art. Because the prior art fails to teach that the stop 7 receives the end of the spring 11, unlike the present invention where the tumbler 60 has a recessed portion 38 for receiving one end 38 of the spring 33, the present invention is not anticipated by the prior art.

For the reasons given above the prior art taught by Brown does not anticipate claim 9 of the

present invention.

For the reasons given above the present invention is not bared by 102(b) in light of the prior art taught by Kelly or Brown.

### CONCLUSION

For the foregoing reasons, applicant's claims are patentable over the cited prior art and the application should be in condition for allowance.

Respectfully submitted,



---

Thomas A. O'Rourke

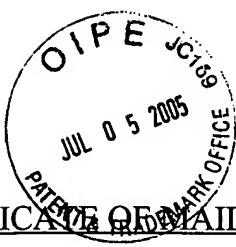
Reg. No.: 27,665

BODNER & O'ROURKE, L.L.P.

425 Broadhollow Road

Melville, New York 11747

(631) 249-7500



CERTIFICATE OF MAILING

I hereby certify that the foregoing Response was mailed by first class mail,  
postage prepaid, in an envelope addressed to the Commissioner for Patents  
P.O. Box 1450 Alexandria, VA 22313-1450 on this 1<sup>st</sup> day of July, 2005.

  
\_\_\_\_\_  
Thomas A. O'Rourke